

**AIR RESOURCES COUNCIL  
MINUTES OF MEETING #209  
09/17/12**

**MEMBERS PRESENT:** Chairman Robert Duval, William Smagula  
Georgia Murray (via conf. call), Steven Walker,  
Deborah Chabot, Ryan Bielagus, Debra Hale,  
Raymond Donald, Carmela Amato-Wierda

**MEMBERS NOT PRESENT:** Vice-Chairman David Collins

**NHDES – ARD PERSONNEL:** Craig Wright, Anne Keach, Paula Scott, Gary Milbury,  
Karla McManus, Michele Roberge, Barbara Hoffman,  
Jeffrey Underhill

**OTHER INTERESTED PARTIES:** David Conley, Esq., Hearings Officer, Patrick Queenan, Esq.,  
NHDoJ; Jarrett Duncan, Esq., McLane PA.

**Call to Order:**

Chairman Duval called Meeting #208 of the Air Resources Council (ARC) to order at 9:05 a.m. on Monday, September 17, 2012. Chairman Duval announced that a quorum of the ARC was present.

**Approval of Minutes:**

William Smagula entered a motion to accept the minutes of meeting #207. Debra Chabot seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #208 were approved and accepted by the ARC.

**Division Activities & Legislative Update:**

Chairman Duval introduced Craig Wright, Acting Director of the Air Resources Division (ARD). Mr. Wright updated members of the ARC on the following issues relative to the ARD:

**Cross-State Air Pollution Regulation**

Mr. Wright reported that on August 21, 2012, the U.S. Court of Appeals for the D.C. Circuit has ruled that the U.S. Environmental Protection Agency (EPA) violated the Clean Air Act in its Cross-State Air Pollution Rule (CSAPR). In a 2:1 decision, a panel of judges said the rule, which set stricter limits on sulfur dioxide (SO<sub>2</sub>) and nitrogen oxide (NO<sub>x</sub>) emissions from power plants in twenty-eight states, exceeded the agency's statutory authority. The EPA has forty-five days to review the Decision and determine a course of action.

**Legislation**

Mr. Wright discussed the following legislative issues impacting the Air Resources Division this session, including:

**Commission to Study Business Regulations**

Mr. Wright reported that the subcommittee met on September 13, 2012. He added that the Commission is developing four recommendations focusing primarily on the Wetlands Bureau and the Alteration of Terrain Program.

**Committee to Study the Rulemaking Authority of State Agencies to Establish Fees (HB 624)**

Mr. Wright reported that the Committee met on September 13, 2012, and the NHDES will meet with Carol McGuire of the Committee on September 20, 2012. Mr. Wright will apprise the ARC as recommendations come forth.

**Permitting Activities:**

#### New Hampshire Air National Guard

Mr. Wright informed members of the ARC that a waiver request was issued to the New Hampshire Air National Guard (NH ANG) for the creation and control of fugitive dust at the Black Hawk Helicopter Training Site in Loudon, NH.

Chairman Duval asked whether abutters to the training site had been notified. Mr. Wright reported that the NH ANG worked with officials from the Department of Safety and the Department of Transportation as well as with local officials to notify the public and ensure safety precautions are in place for the training site operations.

Chairman Duval asked how long the training is expected to continue. Mr. Wright responded that the training sessions are scheduled for one to two days each month for up to one year.

#### Wheelabrator-Claremont

Mr. Wright announced that Wheelabrator-Claremont is renewing the facility's Title V Permit. The ARD held a public hearing on June 26, 2012, and a final decision was issued on September 11, 2012. He added that there is a potential for an appeal of the Title V permit to be filed within the 30-day period following the issuance of the final decision.

#### Budget

Mr. Wright reported that the NHDES must file its FY 14/15 Maintenance Budget. The ARD's portion is \$12 million, which includes the salary and benefits of seventy-eight (78) positions. He added that the NHDES must file a 90% budget reflecting a 10% reduction across the agency.

#### Education and Outreach

The Southwest Regional Planning Commission will meet with staff of the Air Resources Division to discuss decreasing PM<sub>2.5</sub> concentrations in the winter months by rolling out the *Clean Burn Outreach Campaign*.

#### **Env-A 500, Standards Applicable to Certain New or Modified Facilities and Sources of Hazardous Air Pollutants**

Karla McManus presented the revisions of Env-A 500, Standards Applicable to Certain or Modified Facilities and Sources of Air Pollutants to members of the ARC. Ms. McManus explained that the existing rule incorporates by reference certain federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air pollutants (NESHAP), and NESHAP for specific source categories (also known as MACT, for Maximum Achievable Control Technology). These three groups of federal standards, codified at 40 CFR 60, 61, and 63, respectively, are currently in effect and applicable to numerous state sources.

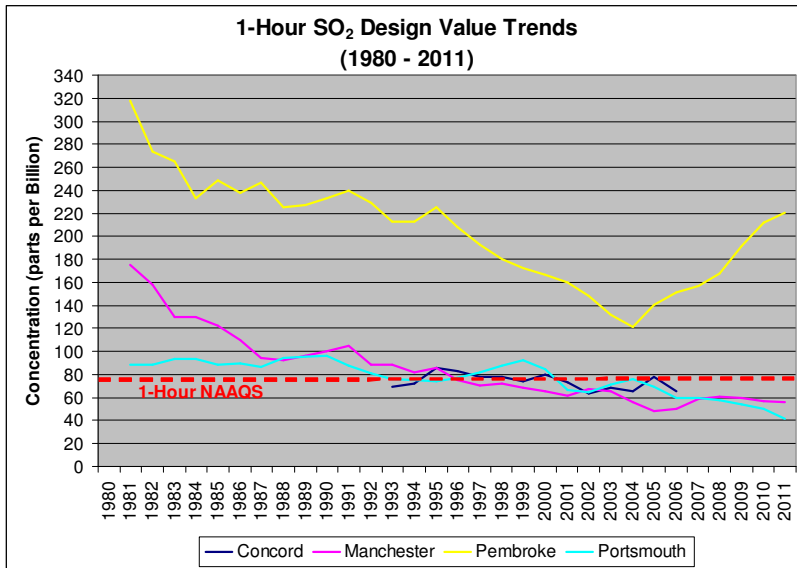
Under New Hampshire's delegation agreement with the United States Environmental Protection Agency (US EPA), New Hampshire's rule is updated annually to incorporate new and revised federal NSPS, NESHAP, and MACT standards that have been promulgated since the last annual update. From July 1m 2011 until June 30, 2012, the US EPA promulgated one MACT standard, as codified in 40 CFR 63. It is Subpart UUUUU, national Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units. This federal standard is already in effect for existing sources, so adopting it by reference into Env-A 500 will not impose new requirements on any source. It will, however, allow the NHDES to perform certain administrative functions on behalf of the regulated entities, such as making applicability determination and alternative monitoring decisions that are routine in nature. In addition, the NHDES is amending Env-A 505.01(cg), Subpart DDDDD, in order to incorporate the correct reference to that MACT Standard at this time.

Raymond Donald entered a motion to accept the initial proposal of amendments to Env-A 500. William Smagula seconded the motion. All were in favor. Chairman Duval instructed members of the ARC to contact Vice-Chairman David Collins with further comments regarding Env-A 500 within fifteen days.

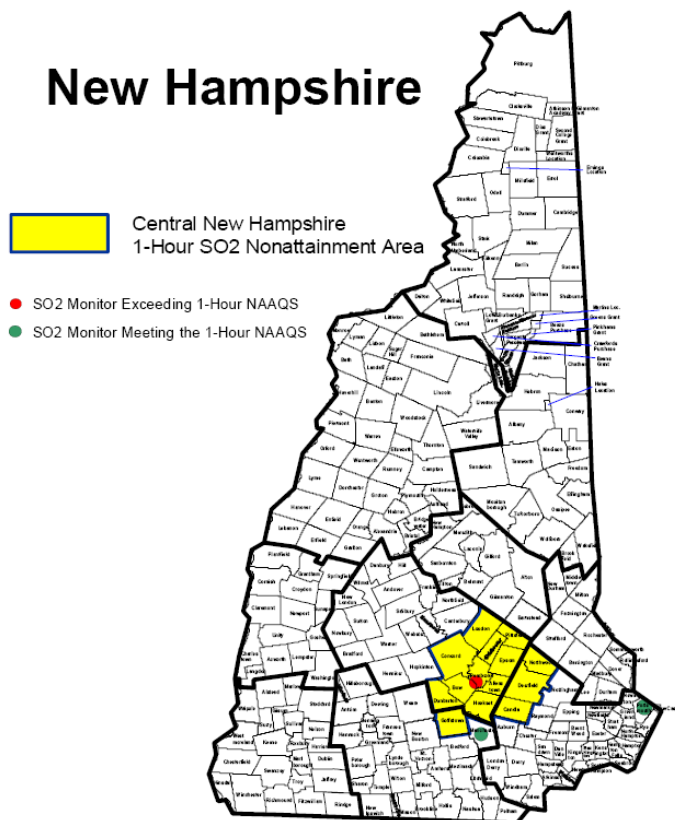
#### Air Quality Monitoring Update:

Chairman Duval introduced Jeffrey Underhill, Chief Scientist of the Atmospheric Science and Analysis Unit. Dr. Underhill provided members of the ARC with an update of New Hampshire's Air Quality Monitoring Program utilizing the following slides to discuss:

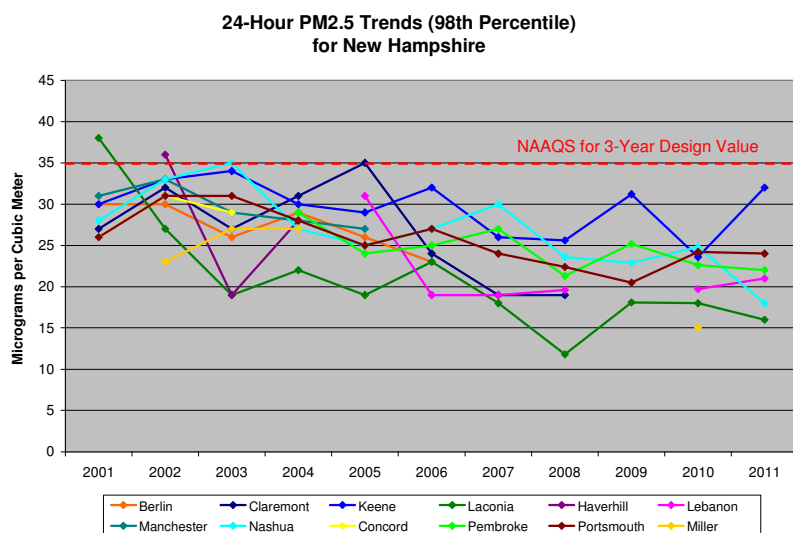
- 1-Hour SO<sub>2</sub> Design Value Trends



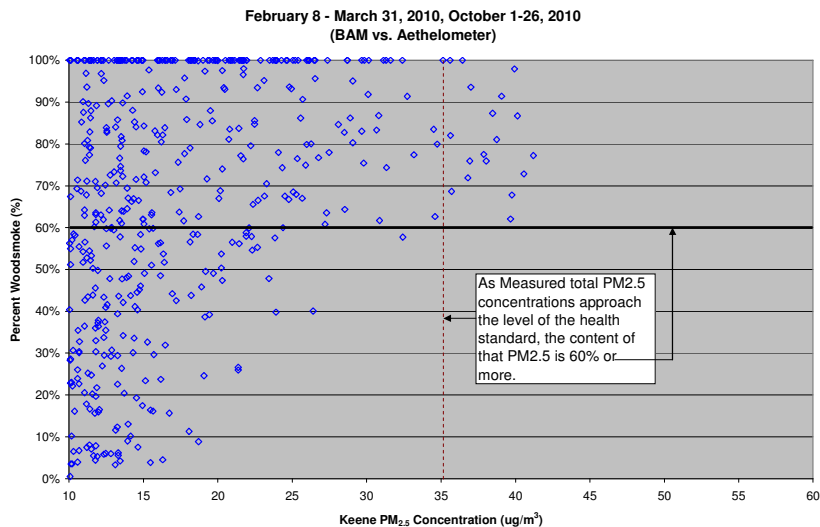
- Proposed SO<sub>2</sub> Non-Attainment Areas in New Hampshire



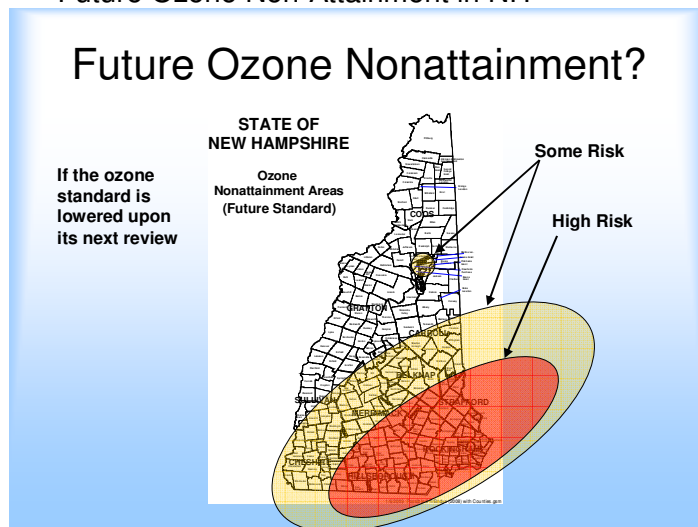
- Fine Particulate (PM<sub>2.5</sub>) Trends



- Increased Wood Smoke Concentration Increases During Winter Months in Keene, NH



- Future Ozone Non-Attainment in NH



- Monitoring and Modeling Requirements for Meeting Attainment
  1. Monitoring data for pollutant must be below health standard
  2. Pollution sources must not contribute to non-attainment elsewhere
  3. Modeling demonstration shows sources meet conditions 1 and 2 (above).

Members of the ARC discussed current and future modeling and monitoring plans with Dr. Underhill including the following issues:

- Ozone Transport Commission (OTC), Northeast States for Coordinated Air Use Management (NESCAUM) and other groups looking into mitigation through use of natural gas
- Distributed Generation
- On-Road and Non-road Sectors
- Point Sources
- Future Funding of Air Quality Monitoring Network

### **Status of Appeals:**

Chairman Duval introduced Paula Scott, Appeals Clerk. Ms. Scott provided members of the ARC with the following status of appeals:

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH) regarding the NHDES Final Determination of Baseline Mercury Input. On August 22, 2011, the ARC accepted the Appeal. Ms. Scott reported that a Pre-Hearing Conference was held on October 17, 2011 and a hearing on the matter is scheduled for March 19, 2012. On October 31, 2011, the Appellant's Request for information was received. On January 27, 2012, an Assented-To Motion to Reschedule Hearing was filed. On January 31, 2012, PSNH submitted Expert Disclosure. On February 10, 2012, an Order on Motion to Reschedule Hearing was issued with a new hearing date of May 21, 2012.

On February 15, 2012 a Notice of Conflict and Assented-to-Motion to Continue the Hearing was received. On February 21, 2012 Sarah Knowlton filed an appearance representing PSNH. On March 12, 2012, PSNH Filed and Assented-to Motion to Revise Certain Deadlines. On May 21, 2012, the Assented-to Motion was granted and hearing date of June 18, 2012 was scheduled. On June 1, 2012, exhibits from the Appellants and the NHDES were received. The NHDES witness list was received on June 8, 2012, and PSNH's witness list was received on June 12, 2012. A Hearing on the matter was held at 10:00 a.m. on June 18, 2012. Findings of Fact and Rulings of Law were received by both parties on July 9, 2012. Deliberations on the matter will commence following the regular meeting of the ARC at 10:00 a.m. on September 17, 2012.

### **New Business**

Raymond Donald recused himself from participating in the deliberations concerning the matter of Docket No. 10-11 ARC, as he was not present for the entire hearing on June 18, 2012.

### **Other Business**

Chairman Duval set the next meeting of the Air Resources Council to be held on October 15, 2012.

### **Public Commentary**

No members of the public were in attendance.

### **Adjourn**

Having no further business to discuss, Steven Walker entered a motion to adjourn. Debra Chabot seconded the motion. All were in favor. Meeting #209 of the Air Resources Council adjourned at 10:00 a.m. on September 17, 2012.

### **Docket No. 11-10 ARC – Appeal of Public Service of New Hampshire (PSNH) regarding the NHDES Final Determination of Baseline Mercury Input**

David Conley, the hearing officer for the above referenced appeal commenced deliberations at 10:20 a.m. with the following members of the Air Resources Council present:

Robert Duval  
Steve Walker  
Ryan Bielagus  
Georgia Murray  
Carmela Amato-Wierda  
Deborah Chabot

Deliberations on the matter closed at 1:05 p.m., on September 17, 2012.